

ORIGINAL
FILED

07 OCT 11 AM 10:03

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 Laurence P. Lubka, Esq., SBN 103752
2 HUNT ORTMANN PALFFY NIEVES
3 LUBKA DARLING & MAH, INC.
301 North Lake Avenue, 7th Floor
Pasadena, California 91101-1807
Phone: (626) 440-5200 Fax: (626) 796-0107
4 lubka@huntortmann.com

5 Attorneys for Berger Bros., Inc.

6
7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11
12 UNITED STATES OF AMERICA for
13 the use and benefit of BERGER BROS.,
INC., a California Corporation,

14 Plaintiff,

15 vs.

16 DICK/MORGANTI, a California joint
17 venture; DICK CORPORATION, a
18 Pennsylvania corporation; THE
19 MORGANTI GROUP, INC., a
20 Connecticut corporation; AMERICAN
21 CASUALTY COMPANY OF
22 READING, PENNSYLVANIA, a
23 Pennsylvania corporation; NATIONAL
24 UNION FIRE INSURANCE
25 COMPANY OF PITTSBURG, PA, a
26 Pennsylvania corporation;
27 CONTINENTAL CASUALTY
28 COMPANY, an Illinois corporation.

Defendants.

CASE NO. C 07 5108 JSW

**NOTICE OF PENDENCY OF
OTHER ACTIONS OR
PROCEEDINGS [CIVIL LOCAL
RULE 3-13(a)]**

*[Assigned to the Hon. Jeffrey S. White,
Courtroom 2]*

HUNT ORTMANN PALFFY NIEVES
LUBKA DARLING & MAH, INC.
301 NORTH LAKE AVENUE, 7TH FLOOR
PASADENA, CALIFORNIA 91101-1807
Phone (626) 440-5200 • Fax (626) 796-0107

1 Per Civil Local Rule 3-13(a), Plaintiff Berger Bros., Inc. is aware of three related
2 cases.

3 The first related case is filed in the United States District Court, Northern District
4 of California, San Francisco Division and is entitled *United States of America for the*
5 *Use and Benefit of Webcor Construction, Inc. v. Dick/Morganti, et al.*, Case No. C-07-
6 2564-CRB. The case was filed by Webcor Construction, Inc. dba Webcor Builders
7 ("Webcor"), on or about May 15, 2007, for breach of contract, enforcement of a Miller
8 Act payment bond and quantum meruit. On information and belief, Berger Bros.
9 alleges that the first related case concerns the General Services Administration federal
10 building located at the corner of Seventh and Mission Streets in San Francisco and is
11 brought by Webcor, a subcontractor on said project, for failure of the general
12 contractor, Dick/Morganti, to pay sums due and owing under Webcor's subcontract.
13 The case is currently pending before the Honorable Charles R. Breyer, United States
14 District Judge Presiding.

15 The second related case is filed in the United States District Court, Northern
16 District of California, San Francisco Division and is entitled *United States of America*
17 *for the Use and Benefit of Bay Area Reinforcing v. Dick/Morganti, et al.*, Case No. 07-
18 3096-JL. The case was filed by Bay Area Reinforcing, on or about June 13, 2007, for
19 breach of contract, enforcement of a Miller Act payment bond, and for labor and
20 materials supplied. On information and belief, Berger Bros., alleges that the second
21 related case concerns the General Services Administration federal building located at
22 the corner of Seventh and Mission Streets in San Francisco and is brought by Bay Area
23 Reinforcing, a subcontractor on said project, for failure of the general contractor,
24 Dick/Morganti, to pay sums due and owing under Bay Area Reinforcing's subcontract.
25 The case is currently pending before the Honorable James Larson, United States
26 District Magistrate Judge Presiding.

27 The third related case is filed in the United States District Court, Northern
28 District of California, San Francisco Division and is entitled *United States of America*

HUNT ORTMANN PALFFY NIEVES
LUBKA DARLING & MAH, INC.
301 NORTHLAKE AVENUE, 7TH FLOOR
PASADENA, CALIFORNIA 91101-1807
Phone (626) 440-5200 • Fax (626) 796-0107

HUNT ORTMANN PALFFY NIEVES
 LUBKA DARLING & MAH, INC.
 301 NORTH LAKE AVENUE, 7TH FLOOR
 PASADENA, CALIFORNIA 91101-1807
 Phone (626) 440-5200 • Fax (626) 796-0107


1 *for the Use and Benefit of Performance Contracting, Inc. v. Dick/Morganti, et al.*, Case
 2 No. C-07-4180-EDL. The case was filed by Performance Contracting, Inc. on or about
 3 August 15, 2007, for breach of contract, enforcement of a Miller Act payment bond and
 4 unjust enrichment. On information and belief, Berger Bros., alleges that the second
 5 related case concerns the General Services Administration federal building located at
 6 the corner of Seventh and Mission Streets in San Francisco and is brought by
 7 Performance Contracting, a subcontractor on said project, for failure of the general
 8 contractor, Dick/Morganti, to pay sums due and owing under Performance Contracting,
 9 Inc.'s subcontract. The case is currently pending before the Honorable Elizabeth D.
 10 Laporte, United States District Magistrate Judge Presiding.

11 All of the related cases and the instant case involve the General Services
 12 Administration building in San Francisco and are brought by subcontractors who
 13 worked on the project. All of the cases involve claims by subcontractors for
 14 nonpayment under their respective subcontracts against the general contractor and the
 15 sureties that provided the payment bond. The cases involve the same subject matter
 16 and substantially all of the same parties.

17 Berger Bros., Inc. alleges on information and belief that consolidated the instant
 18 case with the aforementioned three related cases before Judge Breyer in Case No. C-07-
 19 2564-CRB would avoid conflicts, conserve resources, and promote an efficient
 20 determination of the actions.

21
 22 DATED: October 10, 2007

HUNT ORTMANN PALFFY NIEVES
 LUBKA DARLING & MAH, INC.

23
 24
 25 By 
 26 LAURENCE P. LUBKA
 Attorneys for Berger Bros., Inc.